

# New Reliability Policy for the National Electric System

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## Ministry of Energy publishes “Policy of Reliability, Safety, Continuity and Quality in the National Electric System”

On May 15, 2020, Mexico’s Ministry of Energy (“SENER”) published in the Federal Official Gazette the *Policy of Reliability, Safety, Continuity and Quality in the National Electric System* (the “Policy”). The purported purpose of the Policy is, among other things, to “*promote the sustainable development of the electric industry and ensure its continuous, efficient, and safe operation, for the benefit of the users*”. Except as expressly provided in the Policy, its provisions became effective on May 16, 2020.

According to the Policy, all Members of the Mexican Electric Industry (i.e., transporters, distributors, generators, marketers, suppliers, qualified users-market participants, importers and exporters), as well as the Energy Regulatory Commission (“CRE”), the National Center of Energy Control (“CENACE”) and state governments must abide by the provisions of the Policy.

Pursuant to General Law on Regulatory Improvement, all regulations of general application proposed by entities of the Federal Public Administration, including SENER, must undergo a regulatory improvement before the National Commission for Regulatory Improvement (“CONAMER”), which includes submitting to public consultation the draft regulation in question. As part of this process, the relevant administrative entity must provide to CONAMER an analysis of the regulatory impact. Exceptionally, when the proposed regulation does not entail costs of compliance to private parties, CONAMER may forego the regulatory impact analysis and the regulation can be directly enacted.

In the case of the Policy, SENER did submit its draft to CONAMER, and requested an exemption to the regulatory impact analysis. CONAMER resolved that, as the Policy is merely made up of “*guidelines to be followed by the energy regulators within their legal authority, in order to comply with the policies established in the Mexican Constitution and in the Power Industry Law*”, the Policy is far from being an administrative action of general application. Based on this ruling, SENER proceeded to enact the Policy without undergoing the regulatory impact analysis.

In our view, the Policy does contain rules of general application that entail costs of compliance to be borne by private parties. As such, we are of the view that the Policy should have been subject to a regulatory impact analysis process.

In any case, below please find an overview of the main implications of the Policy. This document is organized to identify and distinguish (i) the provisions of the Policy that may affect projects in a development stage, and (ii) the provisions of the Policy may affect projects that have reached commercial operation.

## **I. Implications on Projects in a Development Stage**

### **1. Planning of the System**

- i. Any activity or project that has an impact on the operational control of the National Grid must be previously approved by SENER and incorporated in next year's National Electric System Development Program ("PRODESEN", per its acronym in Spanish).
- ii. PRODESEN will establish the limits of penetration per zone, region, and system of intermittent clean energy distributed generation (*generación distribuida*).

### **2. Interconnection**

- i. CENACE must evaluate the feasibility of the requests for interconnection studies based on, among other things, several key factors related to intermittent clean energy power plants, namely: (a) the displacement of conventional power plants by the incorporation of intermittent clean energy power plants, (b) the backup capacity required to compensate for the variation of intermittent clean energy power plants, and (c) the limits of penetration of intermittent clean energy power plants.

Other factors to be considered are demand, consumption, and absence of congestion of the area, region, or system subject matter of the interconnection request.

- ii. Based on its feasibility assessment, CENACE may refuse to issue interconnection studies. In this case, CENACE's decision will not be deemed a violation of the "non-discriminatory open access to the National Grid". CENACE may also deny interconnection studies for congested interconnection points, areas, or systems.
- iii. SENER's strategic power plant projects will have priority of interconnection with the National Grid.
- iv. Power plants that have executed an Interconnection Agreement prior to the publication of the Policy will not be prevented from interconnecting to the National Grid.
- v. The incorporation of distributed generation of intermittent clean energy must include intelligent inverters with the capacity to regulate frequency and voltage, as well as the equipment necessary for monitoring, communication, and control from its own control centers and CENACE's.

### 3. Generation Permits

- i. For purposes of the evaluation and issuance of new energy generation permits, CRE must take into consideration the Expansion and Modernization Programs of the National Grid, the PRODESEN and the opinion on the feasibility of interconnection issued by CENACE (which may be requested by CRE during the permit application process).
- ii. Whenever CRE authorizes the assignment, encumbrance, transfer or disposition of a generation permit, the calendar provided in such generation permit (dates for commencement and termination of constructions works, and commercial operation date) may not be modified.
- iii. CRE must require demonstration of technical and financial capacity as a requirement to obtain a generation permit, which capacity must be maintained during the term of validity thereof.

## II. Implications on Operational Projects

### 1. Sufficiency

- i. Active power delivered by power plants must be controlled to ensure the balance between production and consumption of energy. Generation-control actions that power plants will have to undertake include Primary Regulation, Secondary Regulation and Tertiary Regulation (as defined in the Policy).
- ii. Power plants participating in Primary Regulation must adjust their production according to the frequency changes of the system and the timeframes set by CENACE.

For wind, photovoltaic and efficient-cogeneration power plants that, prior to the publication of the Grid Code on April 8, 2016, have (a) achieved commercial operation, or (b) have obtained a Facilities Study and have executed an Interconnection Agreement, without having achieved commercial operation, this requirement will only apply as from the 18-month anniversary of publication of the Policy.

### 2. Dispatch Reliability

- i. For purposes of dispatch, plants that provide "Dispatch Reliability" will have priority over plants that provide "Economic Efficiency".

To guarantee the operation of the National Grid, CENACE may determine operating strategies based on (i) the definition of operational limits with the inclusion of Remedial Action Schemes<sup>1</sup>, and (ii) the variation of intermittent clean energy power plants.

- ii. CENACE may order curtailments to photovoltaic power plants during their ramp-up and ramp-down periods.

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<sup>1</sup> These are tailor-made curtailment measures that CENACE has imposed on some plants.

- iii. In case of Alarm and Emergency Operating Situations, CENACE may schedule curtailments to intermittent clean energy power plants. In this case, if the transmission lines are congested and there are no other mitigation resources, CENACE may curtail or disconnect intermittent clean energy power plants.
- iv. In the event of Alarm and Emergency Operating Situations, the liquidation rules of the Wholesale Electricity Market ("WEM") will only guarantee the payment of operating costs incurred by power plants that have been instructed to adjust their dispatch. Therefore, such units will not be compensated in relation to opportunity costs.

3. New Ancillary Services (*Servicios Conexos*)

- i. CENACE is charged with proposing and determining Ancillary Services (*Servicios Conexos*) that intermittent clean energy power plants will be required to acquire to ensure sufficiency and Dispatch Safety in connection with their performance. CENACE will also establish the proceedings for the assessment of the Ancillary Services' compliance.
- ii. The Ancillary Services related to the variation of intermittent clean energy generation include, among others, the following: back-up capacity, daily start-ups/stoppages, emergency start-ups, island-mode operation, reserve capacity to compensate active power that alters the demand-generation balance, and voltage control.
- iii. CENACE may instruct, at any moment, the allocation and dispatch of out-of-merit power plant units for the provision of Ancillary Services required to ensure the reliability of the National Grid.
- iv. The methodology for establishing the rates for the Ancillary Services must consider the modernization, O&M and fixed costs of power plants that will provide Ancillary Services. Such costs must be borne by generators representing intermittent power plants that provoke an increase in the requirements of the Ancillary Services.

- v. The requirements for the Ancillary Services may be updated as more intermittent clean energy power plants come into operation.
- vi. CENACE will review every 3 years the scope of the Ancillary Services and will propose new Ancillary Services.

#### 4. Market for the Balance of Capacity

With respect to the Market for the Balance of Capacity (*Mercado para el Balance de Potencia*), the Policy states that intermittent clean energy power plants do not provide a firm amount of capacity and, as a result, do not provide reliability to the National Grid. In the calculations related to the Market for the Balance of Capacity, the capacity delivered by such power plants will be deemed as a decrease in: (i) the annual accredited capacity of the Market Participant representing them in the WEM, and (ii) the Annual Requirements of Capacity (“ARC”) of all Load Responsible Entities (i.e. representatives of load centers in the WEM), in proportion to their initial ARC.

Finally, please note that, according to the Policy, while CRE and CENACE issue the necessary regulations, and amend the existing regulations, in order to implement the provisions of the Policy, the existing regulations will continue to apply, in the understanding that, in the event of conflict between the existing regulations and the Policy, the latter shall prevail.

Should these measures have an effect on you, please do not hesitate to contact our partners with expertise in energy matters, who can be of assistance:

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